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TO: Examiner Joseph F. Murphy
Art Unit 1646
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FROM: Briana C. Buchholz
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Re: USSN 09/866,020
Filed: 5/24/01
Art Unit 1646
"Human KCNQ5 Potassium Channels Methods
and Compositions Thereof"
Response to Restriction Requirement

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CASE D0023 NP

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October 15, 2002
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

Art Unit: 1646

DWORETZKY ET AL.

Examiner: Murphy, Joseph

APPLICATION NO: 09/866,020

FILED: May 24, 2001

FOR: Human KCNQ5 Potassium Channels Methods and Compositions Thereof

Assistant Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

This is in response to the Office Action dated September 13, 2002 having a one month shortened statutory period for reply. Since October 13, 2002 fell on a Saturday and October 14, 2002 was a Federal holiday, this response is being timely submitted on the next succeeding business day, October 15, 2002.

In reply to the Office Action dated September 13, 2002, requesting an election of one invention to prosecute in the above-referenced patent application, Applicants provisionally elect, with traverse, to prosecute the invention of Group I, claims 1-24, 58-60 and 62 "drawn to an isolated nucleic acid of SEQ ID NO:1 encoding SEQ ID NO:2, vectors and host cells classified in class 435 and subclass 69.1." This election is made without prejudice to or disclaimer of the other claims or inventions disclosed. Applicants reserve the right to file one or more continuation applications to the non-elected subject matter.

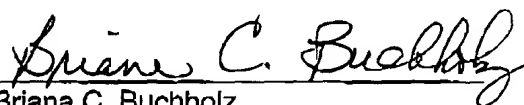
It is respectfully requested that the Group I claims be examined in conjunction with the Group II, claims 25-27 and 40-42 "drawn to a polypeptide of SEQ ID NO:2, classified in class 530, subclass 350."

The search for art does not pose an undue burden on the Examiner, since the isolated nucleic acid of Group I encodes the very polypeptides that are the subject of claims 25-27 and 40-42 of Group II. Due to the direct relationship of the nucleic acid and its encoded product, a KCNQ5 polypeptide, it is submitted that the claims of Groups I and II are related inventions and should be examined together on the merits. There is no undue burden placed on the Examiner by this request. Applicants respectfully request that the claims of Group II (claims 25-27 and 40-42) be rejoined with the claims of Group I (claims 1-24, 58-60 and 62) for examination in the present application. Reconsideration of the restriction requirement is respectfully requested.

No fee is believed to be due for this response. However, should any fee(s) be deemed to be required in this application, the Commissioner is hereby authorized to charge any such fee(s), or credit any overpayment, to Account No. 19-3880 in the name of Bristol-Myers Squibb Company.

Respectfully submitted,

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Date: October 15, 2002